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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,740	01/09/2002	Shigeru Suzuyama	FUJZ 19.316	6537
26304	7590	07/23/2004	EXAMINER	
KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK, NY 10022-2585			DUNCAN, MARC M	
			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,740

Applicant(s)

SUZUYAMA ET AL.

Examiner

Marc M Duncan

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2002.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-11 is/are rejected.
- 7) ☒ Claim(s) 5,6 and 12-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some * c) ☐ None of:
 - 1. ☒ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of the Claims

Claim 4 is rejected under 35 U.S.C. 112, first paragraph.

Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph.

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugauchi et al.

Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Yukihiro.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukihiro in view of Meandzija.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukihiro in view of Jenney.

Claims 5-6 and 12-17 are objected to.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 4 contains a negative limitation. The specification has enabled the claimed

device to be mounted on a router. It is not possible to enable the device to be mounted on a router while simultaneously enabling the device to be mounted a component, but not if that component is a router.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "the IP address table" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugauchi et al.

Regarding claim 1:

Sugauchi teaches a first step of detecting a client having tried but failed to access a server due to a failure of at least one of the server and a network in the Abstract and col. 7 lines 14-28. The cited column and lines teaches a problem having been restored. In order to be restored, the problem first had to be detected.

Sugauchi teaches a second step of detecting that the failure has recovered in col. 7 line 14.

Sugauchi teaches a third step of notifying the client having failed to access the server that the failure has recovered in col. 7 lines 14-28.

Regarding claim 2:

The claim is rejected as the apparatus for performing the method of claim 1.

Regarding claim 3:

Sugauchi teaches wherein the device is mounted on a router in col. 3 lines 60-62. A device that routes data is a router.

Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Yukihiro.

Regarding claim 1:

Yukihiro teaches a first step of detecting a client having tried but failed to access a server due to a failure of at least one of the server and a network in the Abstract line 8.

Yukihiro teaches a second step of detecting that the failure has recovered in the Abstract line 13.

Yukihiro teaches a third step of notifying the client having failed to access the server that the failure has recovered in the Abstract lines 11-13.

Regarding claim 2:

The claim is rejected as the apparatus for performing the method of claim 1.

Regarding claim 7:

Yukihiro teaches wherein the server recovery detector detects that the failure has recovered based on a signal from the server indicating that the failure has recovered in the Abstract lines 3-5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukihiro in view of Meandzija.

Regarding claim 8:

The teachings of Yukihiro are outlined above.

Yukihiro does not explicitly teach wherein the server recovery detector has an SNMP manager function, and the SNMP manager function receives a trap message from the server having an SNMP agent function as the signal. Yukihiro does, however, teach receiving a status signal from the server in order to determine the state of the server.

Meandzija teaches an SNMP manager function, the SNMP manager function receives a trap message from the server having an SNMP agent function as the signal in the Abstract lines 8-16.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the SNMP functions of Meandzija with the state change notification of Yukihiro.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Meandzija teaches that SNMP provides simplicity and low cost of implementation and is useable in most computer and communications equipment in the world today.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yukihiro in view of Jenney.

Regarding claim 9:

The teachings of Yukihiro are outlined above.

Yukihiro does not explicitly teach wherein the server recovery notifier has a client mail address table in which a client is preliminarily associated with a mail address.

Yukihiro does, however, teach notifying a client when an event, such as a restoration of a system, has occurred through the use of email.

Jenney teaches a client mail address table in which a client is preliminarily associated with a mail address in col. 3 lines 10-12.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the mail address table teachings of Jenney with the email teaching of Yukihiro.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Yukihiro teaches that sending an email to notify a restoration would allow for quick notification. The teachings of Jenney meet the needs of Yukihiro to provide the ability to notify a user of an event by associating a user or client with an email address.

Allowable Subject Matter

Claims 5, 6 and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art was not found that explicitly teaches or fairly suggests wherein the server failure detector detects a destination unreachable message indicating that a packet transmitted from the client in order to try to access the server has not reached the server as outlined in claim 5. Prior art was not found that explicitly teaches or fairly

suggests determines that a failure is being occurred in the server when the IP packet addressed to the client from the server is not detected even after a lapse of a predetermined time as outlined in claim 6. Prior art was not found that explicitly teaches or fairly suggests a message transceiver for transmitting/receiving an inquiring message inquiring whether or not a failure recovery notification is required as outlined in claim 14. Prior art was not found that explicitly teaches or fairly suggests a message transceiver for transmitting/receiving an inquiring message of a destination of a failure recovery notification as outlined in claim 15. These limitations are considered allowable only when taken in combination with the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not relied upon contains elements of the instant claims and/or represents a current state of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc M Duncan whose telephone number is 703-305-4622. The examiner can normally be reached on M-T and TH-F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 703-305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md


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